IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

W.P. No. 1669 of 2001 (S/S)

Bhagwati Prasad Bhatt …… Petitioner

Versus

The Director,
Ayurvedic & Unani Services,
U.P., Lucknow & another …….. Respondents

Mr. I.D. Paliwal, Advocate i/b Mr. S. Dhulia, learned counsel for the petitioner.
Learned Standing Counsel for the respondents.

Hon'ble P.C. Verma, A.C.J.

This writ petition has been filed by the petitioner seeking a writ of mandamus to command the respondents to release the salary of the petitioner pertaining to the period from October, 1995 to December, 1996.

Heard Mr. I.D. Paliwal, Advocate i/b Mr Sudhanshu Dhulia, learned counsel for the petitioner and learned Standing Counsel.

In the year 1995, when the petitioner was working as Pharmacist at Gopeshwar, District Chamoli, he was transferred vide order dated 22.8.1995 passed by respondent No. 1 to the same post at district Almora. But the same transfer order was subsequently cancelled by respondent No. 1. Both the orders dated 22.8.1995 and the consequential order of cancellation were general orders pertaining to many similarly placed employees. Thereafter, one Shri Narottam Dass Bhatt, who was interested in being transferred to Gopeshwar, District Chamoli, reached Gopeshwar on 24.8.1995 and in connivance with the then Regional Ayurvedic Officer, Gopeshwar procured an order certifying that he had joined the office at Gopeshwar on 24.8.1995. On the basis of this certificate, Shri Narottam Dass Bhatt filed a writ petition challenging the cancellation of transfer order passed by respondent No. 1, which was dismissed by Lucknow Bench of the Hon'ble Allahabad High Court vide order dated 29.10.1996. Subsequently, thereafter, a special appeal was filed by Shri Narottam Dass Bhatt, which was also dismissed by the Division Bench of

Lucknow Bench of Hon'ble Allahabad High Court. Thereafter, the petitioner was again transferred to Almora vide order dated 15.6.1997 passed by respondent No. 1. The grievance of the petitioner is that he has not been given his salary pertaining to the period of October 1995 to December, 1996.

It is stated by the learned counsel for the respondents that the petitioner was absent from duty during this period, therefore, the salary was not paid.

The petitioner's salary has rightly not been paid on the principle of No Work – No Pay. However, respondents are directed to treat the said period of October 1995 to December 1996 as leave without pay and the service of the petitioner for the said period shall be counted for other purposes.

Subject to above, the writ petition is disposed of. No order as to costs.

(P.C. Verma, A.C.J.)

Dt. 26.06.2004
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